

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. **Rejection of Claims 1-3, 6, 9, 11-12, and 16-17 under 35 U.S.C. §102(b).**

Claims 1-3, 6, 9, 11-12, and 16-17 were rejected under 35 U.S.C. §102(b) as being anticipated by Feng (U.S. Patent 5,857,985). Claim 1 is an independent claim, and all the other claims recited in this rejection depend from Claim 1.

(a) **Independent Claim 1.**

The Applicant has argued that Feng does not disclose “a remote control input interface for enabling a user to control at least one electronic entertainment device”, as required by Claim 1. The Examiner has replied by stating, at page 6 of the current Office Action, “[c]learly, the device disclosed by Feng is electronic and it used [sic] to provide a form of entertainment (massaging is a form of entertainment).”

At the outset, the Examiner’s argument suffers from a lack of clarity. Initially, the Examiner states that Feng discloses a remote control unit, and that the issue is what the remote control unit is used to control. The Examiner then states that the “audio control mode” is controlling an electronic entertainment device, and then he claims that the massage is the entertainment.

Whether the Examiner considers massage to be a form of entertainment is irrelevant to the instant application. The claims are to be interpreted in light of the specification, which states, at paragraph [0007]:

Examples of entertainment devices that may be controlled include a television, an audio system, a video disc player, a video cassette recorder, a direct broadcast satellite receiver, a personal video recorder, and a cable box. Entertainment devices may also include digital portable music and/or entertainment systems (e.g., mp3 players, portable CD or DVD players, PDA devices, etc.).

Nowhere in Feng is such a device either disclosed or controlled. The Examiner

argues that “the controlling of the audio mode can be interpreted as controlling an electronic device”. However, Feng only allows an audio source to be connected. There is no control whatsoever of the audio source. Nothing done by the invention of Feng affects the audio source. The invention of Feng merely allows a user to switch between two input resistor sources, which does not serve to exert any control over either source. Feng has controls to control the massage unit, and nothing else. For example, a user of the device of Feng cannot even control the volume of the audio source.

In addition, the specification defines the term “remote control” to “refer to a device that allows the user to control one or more electronic entertainment devices from a distance”. Using this term in conjunction with “electronic entertainment devices”, as defined in the specification, it is clear that in the instant invention, the “remote” portion of the instant invention refers only to the “entertainment devices”, and not the massage portion of the invention. Feng discloses a massage unit having a controller that does not control any entertainment devices, and that sometimes controls the massage functions of the unit at a distance (see, e.g., Figure 5 of Feng, in which the controller portion (43) is disclosed as attached by a cord).

Because Feng does not contain each element recited in independent Claim 1, the rejection under 35 U.S.C. §102(b) is improper, and must be withdrawn.

(b) Dependent Claims.

Each of Claims 2, 3, 6, 9, 11-12, and 16-17 depend from Claim 1. Each dependent claim adds limitations that are not present in Feng.

Initially, each claim is patentable over Feng because Feng does not disclose an input interface for an electronic entertainment device, per the discussion above.

Claim 2 provides a list of devices for which the input interface enables control, and Claims 3 and 6 specify the manner of communicating. Nothing is controlled by Feng other than the massage unit itself. Nothing whatsoever with respect to the optional audio source is controllable with the unit of Feng.

Claim 9 requires a grippable portion including ribs, which is not present in Feng.

Claim 12 requires that the input interface deactivate control over said electronic entertainment device [] to avoid sending inadvertent commands". Nothing in Feng deactivates the controls. There is no reason to deactivate the controls in Feng, because nothing is controlled by Feng other than the massage functions.

Because elements of each of Claims 2, 3, 6, 9, 11-12, and 16-17 are not disclosed in Feng, Feng cannot anticipate these claims, and the rejection must be withdrawn.

2. Claims 1-3, 6, 9, 11-12, and 16-17 are nonobvious.

Nor would the subject matter of Claims 1-3, 6, 9, 11-12, and 16-17 be obvious to a person having ordinary skill in the art in view of Feng. Feng does not suggest, teach, or provide motivation for an integrated remote control and massage unit as recited in the Applicant's claims. Feng only provides a massage unit that can be controlled, and does not address the control of any other devices. Thus, Claims 1-3, 6, 9, 11-12, and 16-17 recite structure which is patentable over the Feng reference for purposes of 35 U.S.C. § 103.

3. Rejection of Claims 4-5 under 35 U.S.C. §103(a).

Claims 4-5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Feng (U.S. Patent 5,857,985) in view of Moriyasu (U.S. Patent 6,027,463).

Moriyasu does not cure the deficiencies of Feng as noted hereinabove. Feng does not disclose an input interface for an electronic entertainment device. Moriyasu discloses a massage mat that can be connected to an audio/video source and used to provide massage effects to the body of a user.

The Examiner cites Figure 13A and col. 11, line 41 of Moriyasu as having "a remote control input comprising at least one light source and a touch screen" to be used in Feng as a "light source [that is] used to locate the device in the dark" and a touch screen to replace the buttons.

First of all, the lights in Moriyasu, as disclosed in Figure 13A, are used to locate particular points on a person's body on Moriyasu's controller for massage, not to locate the device. Furthermore, there is no motivation in Moriyasu to use the light source for locating the device. Moriyasu's massage unit is a human-sized massage mat device, having a controller unit that is physically connected to it (see Figures 1 and 2 of Moriyasu). There is no motivation to incorporate a locator device, such as a light, into a unit that is not likely to get lost. Although Moriyasu discloses a transmitter from the home audio/video system that can be wireless, the wireless capabilities of Moriyasu are limited to avoiding the issue of hardwiring the speakers to the massage unit.

In addition, there is no motivation to incorporate the touch screen of Moriyasu into the unit of Feng. Feng discloses a small massaging device that is placed directly on the area for massaging (see, e.g., col. 3, ll. 19-23, in which the unit can be placed directly on the back), and is not limited as to regions of the body for placement. There would be no use for "a graphic based interactive touch panel" such as that shown in Moriyasu in the device of Feng.

Thus, there is no motivation to combine Moriyasu and Feng in this manner, and the instant invention would not be obtained if the references could be combined. The rejection of Claims 4 and 5 under 35 U.S.C. §103(a) should be withdrawn.

4. Rejection of Claims 7-8, 10, and 18-19 under 35 U.S.C. §103(a).

Claims 7-8, 10, and 18-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Feng (U.S. Patent 5,857,985) in view of Trivett (U.S. Patent 6,535,125).

Trivett does not overcome the deficiencies of Feng as noted hereinabove. Feng does not disclose an input interface for an electronic entertainment device. Trivett discloses only a remote control locator device.

Feng discloses a massaging unit and a controller connected to the massage unit by a cord. Feng does not disclose a remote control unit enabling a user to control an

electronic entertainment device, as required by the claim. The massage unit itself does not meet the requirements of an "electronic entertainment device" as set forth in the specification. The specification clearly indicates that the instant invention (1) can control an electronic entertainment device and (2) massages. Feng does not meet these requirements, and the addition of the Trivett reference does not cure this deficiency.

Finally, there is no motivation to combine Trivett with Feng. As noted in the previous response, the unit of Feng is large enough to cover the back and includes handles for manipulation with both hands. It is not likely to be lost.

The Examiner's response is that "a locator always provides a convenience when it comes to finding any object, whether it is lost, misplaced, or stored some where". The Examiner appears to suggest that addition of a locator on any object is obvious, which simply is not the case. It is not always obvious to put locators on small objects, such as socks, even though they are easily misplaced. It is also not obvious to put locators on large objects, such as blankets or pillows, that are not likely to be misplaced. With respect to Feng, an object that is of a size to be placed across a human back is not a "hand held" object, such as those noted in Trivett, and is not likely to be misplaced. The invention of Feng is not a "remote control" as contemplated by Trivett.

Trivett does not disclose a flashlight. The Examiner interprets the term "flashing light" as equivalent to "flashlight", which is an inaccurate characterization. The specification of the instant invention discusses a "flashlight", as known in the art, which may use any of a number of light sources. The LEDs that are disclosed in Trivett are used to indicate the current mode of the receiving unit, and, as such, would not illuminate in the manner that a flashlight does. Three single LEDs simply do not illuminate in this manner.

Trivett does not disclose a grippable portion comprising a plastic or thermoplastic elastomer. The Examiner's response is that "the device [in Trivett] is plastic" and that "any portion thereof is grippable". The portion of Trivett cited by the Examiner, at col. 2, ll. 65-66, states that the *signal transmitter* is "enclosed in housing (26) manufactured

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from a thin plastic material or the like". Trivett says nothing about the remote control device itself, which is the subject of Claim 10. Not only does Trivett not refer to the remote control device itself, it does not disclose an *elastomer*, as required by Claim 10. The Examiner seems to indicate that any object is grippable, which is overly broad. The Examiner also ignores Claim 9, from which Claim 10 depends, which specifies that the grippable portion includes ribs.

Finally, the batteries taught by Trivett are not rechargeable. They are repeatedly referred to as "conventional" watch-type batteries, which are not rechargeable.

The combination of Feng and Trivett not only omits essential elements of Claims 7-8, 10, and 18-19, but also lacks any motivation for combination. The rejections of these claims under 35 U.S.C. §103(a) should be withdrawn.

5. Rejection of Claims 13-15 under 35 U.S.C. §103(a).

Claims 13-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Feng (U.S. Patent 5,857,985) in view of Moriyasu (U.S. Patent 6,027,463) and Diamond (Canada Application 2,440,780).

Neither Moriyasu nor Diamond overcomes the deficiencies of Feng as noted hereinabove. Feng does not disclose an input interface for an electronic entertainment device.

The Examiner states that "Moriyasu teaches changing the location and number of vibrators in a housing". In the last response, Applicant pointed out that "[t]he vibrating units disclosed in Moriyasu are permanently fixed in the mat and are not removable." The Examiner's response to this argument is that "Moriyasu was used to provide a teaching of changing the locations and the number of vibrators. ***The examiner interprets this as being able to remove the massaging attachment. The only way to change the locations is to move the massaging devices.***" (emphasis added).

There is no reason to interpret Moriyasu as teaching changing the locations and the number of vibrators after manufacture of a massage mat, rendering the Examiner's

conclusion incorrect. The Examiner's attention is respectfully directed to col. 3, ll. 39-41, of Moriyasu, which states "[w]ith variation of mat sizes, the number and location of vibrators can be modified depending on the application." (emphasis added). This means that different mat sizes have vibrators in different orientations, not that the vibrators are removable. Moriyasu does not disclose that the vibrators are moveable or removable after the mat is manufactured. Being able to move or remove vibrators would be inconsistent with the manner in which Moriyasu operates, that is, in concert with one another with respect to an audio source. Removal or replacement of vibrator units by a user would interfere with the operation of Moriyasu's device.

The Examiner's statement as to "replac[ing] a damaged massaging surface" at page 4 of the Office Action is merely improper speculation, as nothing related to this subject is disclosed in Moriyasu. The Examiner's mere speculation that it could be possible does not meet the legal requirements of the obviousness determination.

Neither Moriyasu nor Feng discloses all the elements of the instant invention as claimed, and the instant invention is not produced by any combination thereof. The rejection under 35 U.S.C. §103(a) should be withdrawn.

6. Rejection of Claims 20 and 24 under 35 U.S.C. §103(a).

Claims 20 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Feng (U.S. Patent 5,857,985) in view of McDermott (U.S. Patent 5,161,879) and Trivett (U.S. Patent 6,535,125).

Neither McDermott nor Trivett overcomes the deficiencies of Feng as noted hereinabove. Feng does not disclose an input interface for an electronic entertainment device. Trivett cannot be combined with Feng to produce the instant invention as claimed, as noted hereinabove. McDermott discloses a flashlight for covert operations having LED elements.

Claim 20 depends from Claim 19, which requires a flashlight at least partially enclosed within the housing of the instant invention. Claim 20 requires that the flashlight

comprise one or more LEDs. Claim 24 is an independent claim that requires a flashlight. The Examiner again uses the three individual mode indicator LEDs in Trivett and attempts to equate them to a flashlight.

Specifically, the Examiner states “the flashlight having LEDs as taught by McDermott could be substituted for the flashing light as taught by Trivett in order to use the LEDs to control the flashing of the light.”

First of all, the flashing LEDs in Trivett are not equivalent to a flashlight, using the conventional meaning of a flashlight. The specification of the instant invention clearly describes a flashlight as is conventionally understood, using any of a number of light sources.

Secondly, the Examiner’s statement of motivation is completely unclear: “to use the LEDs to control the flashing of the light”. Why is the flashing of the light to be controlled? How can the LEDs be used to control the flashing of the light? The instant invention specifies no such function, and Trivett is likewise silent on the control of the flashing lights. This motivation does not exist in any of the references, and the resulting function is irrelevant to the instant invention. The Examiner’s guidance is respectfully requested regarding this issue.

Regarding motivation, nothing in McDermott contemplates incorporating such a specialized item (covert operations flashlight) into a remote control or a massage device. Similarly, nothing in Feng or Trivett contemplates the addition of a flashlight into a hand held remote control device.

Neither Feng, McDermott, nor Trivett contains all of the elements of the instant invention as claimed, and no combination of these references would produce the instant invention.

7. Rejection of Claims 21-23 under 35 U.S.C. §103(a).

Claims 21-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Feng (U.S. Patent 5,857,985) in view of Schettino (U.S. Patent 6,236,621).

Schettino does not overcome the deficiencies of Feng as noted hereinabove. Feng does not disclose an input interface for an electronic entertainment device. Schettino discloses a pillow having a compartment containing an alarm clock. The alarm clock may include a sound recording device.

The Examiner states that it would have been obvious "that the sound recording device as taught by Shettino [sic] could be placed inside of the housing disclosed by Feng in order to be able to have the sound producing device within the housing."

At the outset, Applicant notes that this is an improper statement of the legal requirements of obviousness. The Examiner's statement can be summarized as follows: 'it would be obvious to put A into B in order to have an A within B'. This type of circular reasoning falls far short of the required showing for obviousness.

Nothing in Schettino contemplates incorporating the sound recording device into a massage device, such as that disclosed by Feng, or enclosing the sound recording device in the housing of an integrated remote control and massage device", as claimed. The Examiner's claim that Schettino provides a teaching of placing a recorder inside a housing is not sufficient to sustain a determination of obviousness. The fact that one puts a sound recording device into one type of enclosure does not make it obvious to put such a device into any enclosure.

Nothing whatsoever in Feng contemplates the addition of a sound recording device to the massager. The audio input in Feng is a passive input, and the addition of a sound recording device would not be suggested by its presence. There is no motivation, suggestion, or teaching that would provide for any such combination.

Neither Feng nor Schettino contains all of the elements of the instant invention as claimed, and no combination of these references would produce the instant invention.

8. Conclusion.

Based on the foregoing, Applicants respectfully request that the various grounds

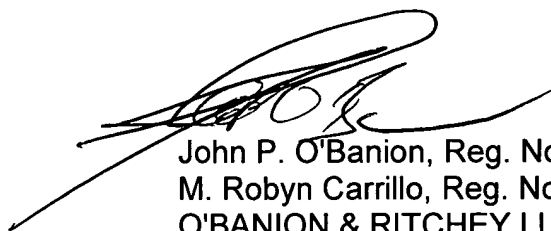
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for rejection in the Office Action be reconsidered and withdrawn with respect to the present form of the claims, and that a Notice of Allowance be issued for the present application to pass to issuance.

In the event any further matters remain at issue with respect to the present application, Applicants respectfully request that the Examiner please contact the undersigned below at the telephone number indicated in order to discuss such matter prior to the next action on the merits of this application.

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Respectfully submitted,



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